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FM AMEMBASSY MANILA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 0779
INFO RHHMUNA/CDRUSPACOM HONOLULU HI IMMEDIATE
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RUEKJCS/SECDEF WASHDC IMMEDIATE
RHEHNSC/NSC WASHDC IMMEDIATE

UNCLAS MANILA 001866

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C O R R E C T E D COPY SIGNATURE

DEPT FOR EAP, EAP/MTS, L/EAP
DOD FOR ISA/AP BG ALLEN

PACOM ALSO FOR FPA HUSO AND GENERAL GOODMAN

E.O. 12958: N/A

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SUBJECT: COURT REJECTS DOJ MOTION TO DOWNGRADE CHARGES,
INDICTS FOUR US MARINES

REF: A: MANILA 1841
B: MANILA 1714
C: 05 MANILA 1519

11. (U) Summary: On April 28, a Manila court rejected a motion to reduce the charges against three of four US Marines accused of raping a Filipina. The judge hearing the case entered "not guilty" pleas on behalf of the accused Marines after their lawyers declined to enter pleas. The judge also rejected a motion by the prosecution to arrest the Marines, saying that the Visiting Forces Agreement remains in effect. The next steps will be a prosecution and defense conference set for May 15 and a pre-trial conference set for May 19. Accompanied by tight Embassy security and consular and public affairs officers, the Marines were able to enter the courtroom quickly and return to the Embassy without incident. End Summary.

Motion to Downgrade Charges Denied

12. (U) On April 28, a Makati (Metro Manila) regional trial court rejected a motion to reduce the charges against three of four US Marines accused of raping a Filipina in November 12005. The Philippine Department of Justice (DoJ) filed a motion on April 24 recommending that charges against SSGT Chad Carpentier, CPL Dominic Duplantis, and CPL Keith Silkwood be reduced from Principal Accused to Accessory (ref B). In his decision, Judge Benjamin Pozon stated that to follow the DoJ's recommendation would "affect his judicial independence." Justice Secretary Raul Gonzalez announced on April 28 that the DoJ would not appeal the decision. Approximately 100 journalists and protesters gathered at the courtroom for the proceedings -- the first public appearance by the accused Marines.

Judge Enters Not Guilty Plea

13. (U) Lawyers for the accused Marines declined to enter a plea, stating that they planned to appeal the Makati court's decision to quash the motion to reduce the charges. In response, Judge Pozon entered a plea of "not guilty" to the original charge of rape on behalf of each of the accused. The complainant did not attend the hearing.

No Arrest Warrants

¶4. (U) The judge also ruled against a motion by the prosecution to arrest the Marines and take them into Philippine custody. He stated that the Visiting Forces Agreement remains valid until the Supreme Court rules otherwise. The accused Marines remain in the custody of the Embassy. The next steps in the case will be a prosecution and defense conference set for May 15 and a pre-trial conference set for May 19.

¶5. (U) Embassy security officers conducted a site visit the day before the hearing and worked with local police to plan the logistics for the court appearance of the four Marines. Accompanied by tight Embassy security and consular and public affairs officers, the Marines were able to enter the courtroom quickly and return to the Embassy without incident on April 28.

KENNEY